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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re CHRISTOPHER V., et al.,

Persons Coming Under the Juvenile Court Law.

B154646

(Super. Ct. No. CK46637)

LOS ANGELES COUNTY DEPARTMENT  
OF CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

LEON V.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles  
County, Margaret S. Henry and Diana M. Wheatley, Judges. Affirmed.

Kate M. Chandler, under appointment by the Court of Appeal, for  
Defendant and Appellant.

Lloyd W. Pellman, County Counsel, and Sterling Honea, Deputy  
County Counsel, for Plaintiff and Respondent.

This appeal is by Leon V., father of three minors: Christopher V., born March 1991; Jennifer V., born September 1992; and Gabriel V., born June 1994. He appeals from the trial court order granting him monitored visitation, claiming that before the minors were detained he enjoyed unmonitored visitation with the three children. That may be so, but the record is devoid of any specific factual material from which we can conclude the trial court abused its discretion.

### **STATEMENT OF FACTS**

The minors first came to the attention of the Department of Children and Family Services (DCFS) on October 12, 2000, when their half-sibling Amy Sue C. was born with a positive toxicology for amphetamine and marijuana. The mother of all children is Melissa U. who is married to Obleo C., the father of Amy Sue. Obleo lived with and provided support for Melissa and all children. It was determined that the children would remain placed with Melissa and Obleo because Obleo was a non-offending parent who was capable of protecting the minors. Specific services were recommended to be provided to Melissa and Obleo and DCFS would make follow up contacts with the family. Melissa and Obleo each signed a voluntary case plan agreeing to participate in services and Melissa began family preservation services. Mother violated the case plan and was told she could not stay in the home with the children. Obleo agreed not to allow her in the home until she completed her drug classes, parenting classes and random testing. In early October DCFS received an anonymous call that Melissa was still living with the family and an unannounced visit was made by DCFS which confirmed the report. The children were detained by DCFS.

On October 15, 2001, DCFS filed a dependency petition alleging that the children were in danger because Melissa had failed in her rehabilitation attempts and Obleo had failed to protect the minors. Appellant's whereabouts

were listed as unknown. DCFS filed a report containing the above information and the children were placed in a foster home with a confidential address. Regarding visitation, DCFS suggested that “Any visitation with parents to be monitored.”

A detention hearing was conducted on October 15, 2001, and counsel was appointed to represent appellant, who was present. Appellant reported to the court that he was residing in Scottsdale, Arizona. The children had been placed with his mother and appellant had been visiting with the children on weekends. Appellant requested that he be allowed to continue having reasonable visitation. The court stated: “One thing I normally require for reasonable visitation is for the department to have interviewed the father and done a live scan on him. Has that been done?” To which appellant responded: “It will be done tomorrow.” The court responded: “I will probably structure an order today for a monitored visitation with a DCFS-approved monitor with reasonable visitation and discretion for overnight visitation, but he needs to be checked out by the department.” Counsel for respondent replied that “if there is any problem, we’ll address it at the PRC then.”

The court found that appellant is the presumed father of the three oldest children. It also found a prima facie case existed for detention of the minors and ordered: “DCFS has the discretion to release minor[s] to Any Appropriate Relative.” Regarding visitation, the court ordered: “Monitored visits for MOTHER AND BOTH FATHERS to be monitored by DCFS approved monitor.” In addition, with regard to appellant, the court ordered: “DCFS HAS DISCRETION TO LIBERALIZE [APPELLANT’S] VISITS TO INCLUDE OVERNIGHTS AFTER HE LIVESCAN AND IS INTERVIEWED BY DCFS.”

Counsel for appellant requested that if DCFS ran into a problem liberalizing appellant’s visits that “the PRI [pre-release investigation] report address that.” The court ordered: “On the PRI report for one week, ask that that

report address visitation for [appellant], results of the live scan and interview for him and recommendations for the department.”

The PRI hearing was conducted on October 22, 2001. Counsel appeared for appellant who was not present. It was noted by the court that the live scan report had not been completed for appellant. The matter was continued to November 14, 2001.

The report prepared for November 14, 2001, indicated that appellant had not made himself available for an interview. But it did state that appellant had told the caseworker Melissa had been on drugs during the course of their relationship. Under the heading “Assessment/Evaluation,” the following is pertinent to appellant: “[Appellant] lives in Arizona and CSW has been unable to contact him at this time. Further, on 11/2/01, CSW spoke to Paternal Grandmother . . . who stated she does not know where [appellant] is living at this time. As a result, a parent is not available to provide a safe home environment to the children.” It was recommended that appellant have monitored visits.

On November 14, 2001, appellant was not present but was represented by counsel. The court concluded that appellant had received appropriate notice of the hearing. Appellant’s counsel told the court that he did not object to the recommended disposition, that his three children remain in their current placement, but his concern was “whether his visits are going to be monitored or not.”

After the disposition was announced, the issue turned to visitation with appellant. His counsel requested that he be allowed unmonitored visits as a non-offending parent. Counsel for DCFS told the court that appellant had done the live scan and that fingerprint results turned up a conviction in 1997 of inflicting corporal injury to a spouse. The caseworker had been told by appellant that he had completed a program as a result of the conviction, but that he had been unable to show proof of completion. Counsel suggested that if appellant demonstrated proof

of completion of an appropriate program visitation could be liberalized: “But until that time, we would ask for monitored visits. *The father, he is from Arizona. We are not certain as to his relationship with the children. . . .*” (Italics added.)

Counsel for the minors concurred: “I do agree there is concern based on the 1997 conviction of spousal abuse. However, I would ask that once counsel for father can confirm that he has complied with the criminal aspects of the case, and done whatever programs he was required, he should supply that to the social worker and to the court, and walk it on to have his visits modified to unmonitored.” The court suggested it would follow this recommendation.

Counsel for appellant objected: “It’s my position in objecting to the court’s order that a criminal conviction for up to five years in the past is not found as relevant in injury or risk to the children, and not a sufficient basis to limit a parent’s rights. And I do not believe that the mere fact that he was convicted of something without showing that he failed to comply in terms of parole or reoffended the children create a sufficient nexus, obviously, for them to put in an allegation. And I think that this idea that we can impinge on parental rights without any evidence or due process is not in the interest of [the] children. It will limit their ability to develop a relationship with their father.”

The court ordered monitored visitation but with DCFS “discretion to Liberalize visitation.” Appellant filed a timely notice of appeal.

## **DISCUSSION**

Visitation in dependency proceedings is a significant issue in addressing the overall best interests of the children involved. It is explained as follows in *In re Moriah T.* (1994) 23 Cal.App.4th 1367, 1375-1376:

“The purposes of visitation orders in juvenile court dependency proceedings differ from those in family law cases where judicial officers often specify in detail the frequency and length of visits. *Because circumstances have placed a child at substantial risk of harm and since intervention by the juvenile court is deemed necessary to protect the child, visitation arrangements, albeit important, are but a partial component of a family’s case plan.* The family plan must focus on the child’s best interests and on the elimination of conditions which led to the juvenile court’s finding that the child has suffered, or is at risk of suffering, harm specified in section 300. [Citation.] Supervision by the probation office or county welfare agency is statutorily mandated. [Citation.]

*“Consistent with these legislative dictates, a juvenile court relies on the county agency to manage each dependency case and to provide the court with information on the family’s progress and on the well-being of the child.* Because the period of juvenile court’s jurisdiction is designed to be relatively brief, the effectiveness of a family plan, including visitation, depends on the resources and flexibility of the agency charged with its implementation and supervision.” (Italics added.)

This demonstrates the significance of timely and reliable information to the juvenile court in addressing what is in the best interest of the detained children.

“In an area analogous to the relative placement issue -- custody and visitation orders -- the appropriate standard is abuse of discretion. [Citation.] ‘The reviewing court must consider all the evidence, draw all reasonable inferences, and resolve all evidentiary conflicts, in a light most favorable to the trial court’s ruling. [Citation.] The precise test is whether any rational trier of fact could conclude that the trial court order advanced the best interests of the child. [Citation.] We are required to uphold the ruling if it is correct on any basis, regardless of whether it is the ground relied upon by the trial judge. [Citation.]’ [Citation.] The trial court is

accorded wide discretion and its determination will not be disturbed on appeal absent ‘a manifest showing of abuse.’ [Citation.]” (*In re Robert L.* (1993) 21 Cal.App.4th 1057, 1067.)

We find no abuse of discretion demonstrated here. This result is compelled by the total lack of information within the record about appellant and his relationship to the children to suggest that unmonitored visitation with appellant is in the best interest of the minors. This flows from appellant’s failure to make himself available for an interview by DCFS, as originally ordered by the court, and his failure to provide documentation relating to his 1997 conviction. Given his 1997 conviction and his admission to the caseworker that Melissa used drugs when together with appellant, the court acted responsibly in requiring further information before granting unmonitored visitation.

### **DISPOSITION**

The order for monitored visitation is affirmed.

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HASTINGS, J.

We concur:

EPSTEIN, Acting P.J.

CURRY, J.